

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

MARY J. KANDALL,

Plaintiff,

v.

**CIVIL ACTION NO. 2:04 CV 71
(Maxwell)**

**COMMISSIONER OF
SOCIAL SECURITY,**

Defendant.

ORDER

By Order entered June 29, 2006, the Court referred the Plaintiff's Application For Fees And Other Expenses Under The Equal Access To Justice Act filed in the above-styled Social Security action to United States Magistrate Judge James E. Seibert, pursuant to 28 U.S.C. § 636(b)(1)(B); Rule 72 of the Federal Rules of Civil Procedure; and Rule 7.02(c) of the Local Rules of Civil Procedure, with directions to consider the same and to submit to the Court proposed findings of fact and a recommendation for disposition.

On August 17, 2006, Magistrate Judge Seibert entered a Report And Recommendation That An Award Of Attorneys' Fees Under The Equal Access To Justice Act Be Denied, wherein the parties were directed, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e) of the Federal Rules of Civil Procedure, to file any written objections thereto with the Clerk of Court within ten (10) days after being

served with a copy of said Report And Recommendation. Magistrate Judge Seibert's Report And Recommendation expressly provided that a failure to timely file objections would result in waiver of the right to appeal from a judgment of this Court based thereon.

The docket in the above-styled civil action reflects that no objections to Magistrate Judge Seibert's August 17, 2006, Report And Recommendation That An Award Of Attorneys' Fees Under The Equal Access To Justice Act Be Denied have been filed.

Upon consideration of said Report and Recommendation That An Award Of Attorneys' Fees Under The Equal Access To Justice Act Be Denied, and having received no written objections thereto¹, the Court accepts and approves the Report And Recommendation That An Award Of Attorneys' Fees Under The Equal Access To Justice Act Be Denied. Therefore, it is

ORDERED that Magistrate Judge Seibert's Report And Recommendation That An Award Of Attorneys' Fees Under The Equal Access To Justice Act Be Denied (Docket No. 32) be, and the same is hereby, **ACCEPTED** in whole and that the Plaintiff's Application For Fees And Other Expenses Under The Equal Access To Justice

¹The failure of the parties to object to the Report And Recommendation not only waives their appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

Act (Docket No. 23) be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Plaintiff's Application For Fees And Other Expenses Under The Equal Access To Justice Act (Docket No. 23) be, and the same is hereby, **DENIED.**

The Clerk of Court is directed to transmit copies of this Order to counsel of record.

ENTER: October 16, 2006

/S/ Robert E. Maxwell
United States District Judge